

AMENDED IN ASSEMBLY MARCH 26, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 355**

**Introduced by Assembly Member Pacheco**

February 11, 2003

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An act to amend Section 871 of the Welfare and Institutions Code, relating to minors.

LEGISLATIVE COUNSEL'S DIGEST

AB 355, as amended, Pacheco. Juveniles: escape from custody.

Existing law makes it a misdemeanor for any person who is under the custody of a probation officer or any peace officer in a county juvenile hall or who is committed to, or being transported to or from, a county juvenile ranch, camp, or forestry camp to escape or attempt to escape from that place or during transportation to or from that place.

This bill would revise and recast that provision. In addition, the bill would make it a misdemeanor for any person who is under the custody of a probation officer or any peace officer in a county juvenile hall, or committed to a county juvenile ranch, camp, ~~or~~ forestry camp, *or regional facility*, to escape or attempt to escape while outside or away from such an institution or facility while under the custody of a probation officer or any peace officer. By creating a new crime, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 871 of the Welfare and Institutions  
2 Code is amended to read:

3 871. (a) Any person under the custody of a probation officer  
4 or any peace officer in a county juvenile hall, or committed to a  
5 county juvenile ranch, camp, ~~or~~ forestry camp, *or regional facility*,  
6 who escapes or attempts to escape from the institution or facility  
7 in which he or she is confined, who escapes or attempts to escape  
8 while being conveyed to or from such an institution or facility, or  
9 who escapes or attempts to escape while outside or away from such  
10 an institution or facility while under the custody of a probation  
11 officer or any peace officer, is guilty of a misdemeanor, punishable  
12 by imprisonment in the county jail not exceeding one year.

13 (b) Any person who commits any of the acts described in  
14 subdivision (a) by use of force or violence shall be punished by  
15 imprisonment in a county jail for not more than one year or by  
16 imprisonment in the state prison.

17 (c) The willful failure of a person under the custody of a  
18 probation officer or any peace officer in a county juvenile hall, or  
19 committed to a county juvenile ranch camp, or forestry camp, to  
20 return to the county juvenile hall, ranch, camp, or forestry camp  
21 at the prescribed time while outside or away from the county  
22 facility on furlough or temporary release constitutes an escape  
23 punishable as provided in subdivision (a). However, a willful  
24 failure to return at the prescribed time shall not be considered an  
25 escape if the failure to return was reasonable under the  
26 circumstances.

27 (d) A minor who, while under the supervision of a probation  
28 officer, removes his or her electronic monitor without authority  
29 and who, for more than 48 hours, violates the terms and conditions  
30 of his or her probation relating to the proper use of the electronic  
31 monitor shall be guilty of a misdemeanor. If an electronic monitor  
32 is damaged or discarded while in the possession of the minor,



1 restitution for the cost of replacing the unit may be ordered as part  
2 of the punishment.

3 (e) The liability established by this section shall be limited by  
4 the financial ability of the person or persons ordered to pay  
5 restitution under this section, who shall, upon request, be entitled  
6 to an evaluation and determination of ability to pay under Section  
7 903.45.

8 SEC. 2. No reimbursement is required by this act pursuant to  
9 Section 6 of Article XIII B of the California Constitution because  
10 the only costs that may be incurred by a local agency or school  
11 district will be incurred because this act creates a new crime or  
12 infraction, eliminates a crime or infraction, or changes the penalty  
13 for a crime or infraction, within the meaning of Section 17556 of  
14 the Government Code, or changes the definition of a crime within  
15 the meaning of Section 6 of Article XIII B of the California  
16 Constitution.

